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OFFICE OF PETITIONS

In re Application of :
Stephen Morphet :
Application No. 10/798,160 : DECISION ON PETITION
Filed: March 11, 2004 :
Attorney Docket No. 345/553.000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 10, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on November 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

As the petition indicates that the reply is the filing of a continuing application, this statement is being construed as a request to expressly abandon this application upon revival of this application for continuity purposes with the continuing application. If this is an incorrect reading of the statement in the petition, petitioner must promptly notify this Office.

Accordingly, since revival of this application is apparently being sought solely for purposes of continuity with the continuing application, this application is again abandoned in favor of the continuing application (Application No. 11/704,483, filed February 9, 2007).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time fee submitted with the petition on February 20, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

A handwritten signature in cursive script, appearing to read "Frances Hicks", is written over the printed name.

Frances Hicks
Petitions Examiner
Office of Petitions